

### **REMARKS**

Claims 1, 4-7, 9-14, 16-24, 27-30, 33-37 and 39-42 are pending in the present application. Non-elected claims 4, 10-14, 18-22, 27, 33-37 and 40-42 are withdrawn from consideration. However, independent claims 1, 23 and 24 remain generic with respect to the elected and non-elected inventions. By this reply, claims 2-3, 8, 15, 25-26, 31-32 and 38 have been canceled. Claims 1, 23 and 24 are independent.

The claims have been amended to clarify the invention and to correct minor informalities according to U.S. patent practice. These modifications do not add new matter.

### **35 U.S.C. § 112, Second Paragraph, Rejection**

Claim 3 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is moot in view of the cancellation of claim 3.

### **35 U.S.C. § 102 and 103 Rejections**

Claims 1-3, 16, 23-26 and 39 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Takahashi (US2006/0077827). Claims 15 and 38 have been rejected under 35 U.S.C. § 103 as being unpatentable over Takahashi in view of Martens (US2005/0083830). Claims 5-9, 17 and 28-32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Takahashi in view of Ito et al. (US2003/0137909). These rejections, insofar as they pertain to the presently pending claims, are respectfully traversed.

First, the rejection of claims 15 and 38 is moot in view of the cancellation of these claims, which was made without acquiescing to any of the Examiner's allegations made in rejecting these claims.

Secondly, without acquiescing to any of the Examiner's allegations made in rejecting the claims, but to expedite prosecution only, independent claims 1, 23 and 24 have been amended to further emphasize the distinguishing features of the present invention over the prior art of record. Particularly, independent claim 1 has been amended to recite that the recording medium has "at

least one final defect management area” along with “at least one temporary defect management area” allocated to the spare area of the recording medium. Further, independent claim 1 now requires that “the temporary defect management area is used until the recording medium is finalized”. In other words, there are now two different types of defect management areas (temporary defect management area and final defect management area) where the temporary defect management area is used until the recording medium is finalized. For instance, as shown in Figure 4 of the present application, the recording medium has a temporary defect management area TDMA2 allocated to an outer spare area (OSA0), which is distinguished from the final defect management areas (DMA1 - DMA4). Until the recording medium is finalized, defect management information is temporarily stored in the TDMA and thereafter, the defect management information is recorded into the final defect management areas. The recording medium is considered to be finalized, e.g., when recording data into a user data area has been completed. See, e.g., paragraph [042] of the specification. Other independent claims 23 and 24 recite similar features in a varying scope.

None of the applied references, either taken singularly or in combination, teaches or suggests at least the above noted features recited in each of independent claims 1, 23 and 24. For instances, in Takahashi there is only one type of defect management area (DMA1-DMA4) and there is no use of a temporary defect management area until the recording medium is finalized. In fact, Takahashi is directed to a conventional DVD structure in which there is no finalization of the recording medium. Similarly, Martens is merely directed to the specific composition of the recording medium layers and does not teach or suggest at least the above noted features recited in each independent claim. Also, Ito et al. does not overcome the deficiencies of Takahashi since Ito et al. discloses one type of defect management area allocated in the lead-in and lead-out zones 4 and 6 and Ito et al., there is no use of a temporary defect management area until the recorded medium is finalized, as required by each independent claim.

Therefore, Takahashi, alone or in combination with the other applied reference(s), does not anticipate or render obvious the claimed invention. Accordingly, independent claims 1, 23 and 24 and their dependent claims (due to the dependency) are patentable over the applied

references, and reconsideration and withdraw of the rejections based on these reasons are respectfully requested.

**CONCLUSION**

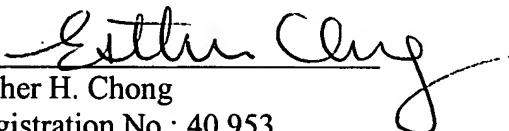
In view of the above amendments and remarks, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Esther H. Chong Reg. No. 40,953 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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